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9		
10	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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. 12	·	
13	In the Matter of the Accusation Against:	Case No. 2010 - 482
14	STACEY ELLEN FRIEDMAN-STEARNS P.O. Box 667	
15	1	ACCUSATION
16	Registered Nurse License No. 493104	
	Dogwandont	
17	Respondent.	
17 18	Respondent.  Complainant alleges:	
		<u>CIES</u>
18	Complainant alleges:  PART	TIES ainant) brings this Accusation solely in her
18 19	Complainant alleges:  PART	ainant) brings this Accusation solely in her
18 19 20	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant)	ainant) brings this Accusation solely in her
18 19 20 21	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant official capacity as the Interim Executive Officer of Consumer Affairs.	ainant) brings this Accusation solely in her
18 19 20 21 22	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant official capacity as the Interim Executive Officer of Consumer Affairs.	ainant) brings this Accusation solely in her of the Board of Registered Nursing, Department and of Registered Nursing issued Registered
18 19 20 21 22 23	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant alleges)  official capacity as the Interim Executive Officer of Consumer Affairs.  2. On or about August 31, 1993, the Board	ainant) brings this Accusation solely in her of the Board of Registered Nursing, Department and of Registered Nursing issued Registered nan-Stearns (Respondent). The license was in
18 19 20 21 22 23 24	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant official capacity as the Interim Executive Officer of Consumer Affairs.  2. On or about August 31, 1993, the Boat Nurse License No. 493184 to Stacey Ellen Friedmann.	ainant) brings this Accusation solely in her of the Board of Registered Nursing, Department and of Registered Nursing issued Registered nan-Stearns (Respondent). The license was in
18 19 20 21 22 23 24 25	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant official capacity as the Interim Executive Officer of Consumer Affairs.  2. On or about August 31, 1993, the Boat Nurse License No. 493184 to Stacey Ellen Friedman full force and effect at all times relevant to the characteristics.	ainant) brings this Accusation solely in her of the Board of Registered Nursing, Department and of Registered Nursing issued Registered nan-Stearns (Respondent). The license was in
18 19 20 21 22 23 24 25 26	Complainant alleges:  PART  1. Louise R. Bailey, M.Ed., RN (Complainant official capacity as the Interim Executive Officer of Consumer Affairs.  2. On or about August 31, 1993, the Boat Nurse License No. 493184 to Stacey Ellen Friedman full force and effect at all times relevant to the characteristics.	ainant) brings this Accusation solely in her of the Board of Registered Nursing, Department and of Registered Nursing issued Registered nan-Stearns (Respondent). The license was in

## **JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

# STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
- 6. Section 2761 of the Code states in pertinent part that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:
  - (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
- 7. Section 2762 of the Code states in relevant part that in addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:
- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## **REGULATORY PROVISIONS**

- 9. California Code of Regulations, Title 16, section 1442, states that, as used in Section 2761 of the Code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.
- 10. California Code of Regulations, Title 16, section 1443, states that, as used in Section 2761 of the Code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5
- 11. California Code of Regulations, Title 16, section 1443.5, states in pertinent part, that a Registered Nurse shall be considered to be competent when she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process.

#### 12. DRUGS

Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a stimulant drug.

Marijuana is a Schedule I controlled substance, as designated by Health and Safety Code section 11054(d)(13), and a dangerous drug, as designated by Business and Professions Code, section 4022. It is a hallucinogenic drug.

# FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Gross Negligence and/or Incompetence)

- 13. Respondent's Registered Nurse's license is subject to disciplinary action under section 2761(a), as defined in Title 16, California Code of Regulations section 1442 and/or section 1443, for the violation of Code section 2762(b) in that she was under the influence of illegal controlled substances, to wit: Amphetamines, Methamphetamine and Marijuana, while working at Sonoma Developmental Center (SDC), in Kenwood, California. The circumstances are as follows:
- 14. On or about October 20, 2006, during the course of her regularly scheduled shift, while in a meeting with her immediate supervisors regarding excessive use of sick time and work performance issues, Respondent was observed to be hesitant and slow in her balance/walking, slowed in her alertness, speaking in incomplete sentences, withdrawn and crying. Based on a assessment by SDC supervisory staff, Respondent was required to submit to drug testing. The results of the test were positive for Amphetamines, Marijuana and Methamphetamine. SDC brought disciplinary action against Respondent for being under the influence of illegal drugs while performing her duties as a Registered Nurse.
- 15. On or about January 10, 2007, Respondent signed a stipulated settlement with SDC in which she agreed to participate in a treatment program for chemical dependency and submit to random drug testing. As part of the settlement, the SDC agreed to dismiss its disciplinary action filed against Respondent.
- 16. On or about March 13, 2007, Respondent resigned from her employment with SDC. Respondent admitted that she resigned her employment with SDC in lieu of termination because she was unable to complete her chemical dependency program.

#### SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of a Controlled Substance)

17. Respondent's Registered Nurse license is subject to disciplinary action under section 2762(b) in that she was under the influence of illegal controlled substances, to wit:

1	Amphetamines, Methamphetamine and Marijuana, while performing her duties as a Registered		
2	Nurse at SDC, as set forth in paragraphs 14, above.		
3	<u>PRAYER</u>		
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
5	and that following the hearing, the Board of Registered Nursing issue a decision:		
6	1. Revoking or suspending Registered Nurse License No. 493184, issued to Stacey		
7	Ellen Friedman-Stearns.		
8	2. Ordering Stacey Ellen Friedman-Stearns to pay the Board of Registered Nursing the		
9	reasonable costs of the investigation and enforcement of this case, pursuant to Business and		
10	Professions Code section 125.3;		
11	3. Taking such other and further action as deemed necessary and proper.		
12	DATED: 3)30/10		
13	DATED. Of the property of the	LOUISE R. BAILEY, M.ED., RN Interim Executive Officer	
14		Board of Registered Nursing Department of Consumer Affairs	
15		State of California  Complainant	
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